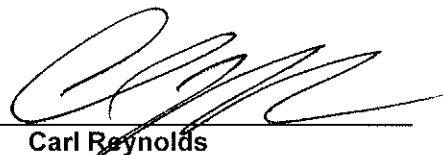


# **Office of Court Administration**

## **Ethics and Conduct Policy For Agency Employees**

June 1, 2011

Approved by:



Carl Reynolds

**OFFICE OF COURT ADMINISTRATION  
ETHICS AND CONDUCT POLICY FOR AGENCY EMPLOYEES**

**1. Overview**

The purpose of this policy is to describe the standards of conduct for all Office of Court Administration employees. The policy restates constitutional, statutory, and common-law principles of ethical conduct, and adopts some stricter standards to guide agency employees in the conduct of agency business. All OCA employees must familiarize themselves with this ethics policy, and must abide by all applicable federal and Texas laws, administrative rules, and OCA conduct policies, including this ethics policy. OCA has designated its general counsel as its ethics advisor, and all employees are encouraged to contact the ethics advisor with any questions or concerns about matters addressed in this policy.

**2. Definitions**

"Agency" or "OCA" means the Office of Court Administration of the Judicial System of Texas.

"Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage to the beneficiary or to any other person in whose welfare the beneficiary has a direct and substantial interest, including meals, transportation, and lodging.

"Contract" includes all contracts and amendments to contracts such as depository contracts; interagency and interlocal contracts; contracts for consultant services, professional services, and utility services; and requests for lease and leases for office space.

"Employee" means an employee of OCA or one of the entities supported by OCA, including but not limited to the Guardianship Certification Board, the Court Reporters Certification Board, the Judicial Committee on Information Technology, the Judicial Council, or the Task Force on Indigent Defense.

"Employment contract" includes a personal services contract, but does not apply to an at-will employment relationship that involves the traditional relationship of employer and employee.

**3. Standards of Conduct**

An OCA employee shall not:

1. Accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties or that the employee knows or should know is being offered with the intent to influence the employee's official conduct;
2. Disclose confidential information, information that is excepted from public disclosure under Rule 12 of the Rules of Judicial Administration, information that has been ordered sealed by a court, or information from a

court that has been obtained by virtue of the employee's position with the agency and that has not been released to the public by the court;

3. Accept other employment, including self-employment, or engage in business, charitable or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is excepted from public disclosure under Rule 12 of the Rules of Judicial Administration, information that has been ordered sealed by a court, or information from a court that has been obtained by virtue of the employee's position with the agency and that has not been released to the public by the court;
4. Accept other employment, including self-employment, or compensation or engage in a business, charitable or professional activity that could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's official duties;
5. Make a personal investment, or have a personal or financial interest, that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest;
6. Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the employee's official powers or performed the employee's official duties in favor of another;
7. Knowingly make misleading statements or provide false information via any mode of communication, in the course of official state business;
8. Use or invoke the employee's official position or employment with the state to attempt to obtain privileges, receive benefits, or avoid the consequences of illegal acts; or
9. Make statements, via any mode of communication, purportedly on behalf of the agency but outside of his or her official capacity.

#### **4. Acceptance of Benefits**

- A. An OCA employee may not solicit, accept, or agree to accept any benefit in exchange for any exercise of official discretion.
- B. An OCA employee may not solicit or accept, on behalf of any person, a benefit from a person who the employee knows or should know is:
  1. Interested in a contract, purchase, claim, or other pecuniary transaction that may be substantially affected by the performance or nonperformance of the employee's official duties; or

2. Subject to regulation, certification or investigation by OCA or an OCA-affiliated agency.
- C. An OCA employee may accept a benefit in a situation described by Section 4. B. above if the gift does not raise the appearance of impropriety and if the benefit is:
1. A non-cash item or items of less than \$50 in value;
  2. Food, lodging, transportation, or entertainment in any amount so long as the recipient is a guest at a meal or event at which the host also is present;
  3. From a person such as a friend, relative, or business associate with whom the employee has a relationship independent of his or her official status if the benefit is given on account of that relationship rather than the official status; or
  4. A fee, payment, or other benefit for which the employee has given legitimate consideration reflecting the actual value of the goods or services and in a capacity other than as a public servant.
- D. An OCA employee may not solicit, accept, or agree to accept an honorarium (such as a speaker's fee) in consideration for services that the employee would not have been requested to provide but for the employee's official position. An OCA employee may not accept money for a travel expense reimbursement from a person that the agency or OCA-affiliated agency intends to audit, examine, or investigate or is auditing, examining, or investigating. An OCA employee may accept food, transportation, and lodging in connection with a conference or similar event in which the employee renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory.

## **5. Gifts to OCA**

Although Chapter 72 of the Government Code gives OCA the authority to accept gifts, a gift can be accepted only if it can be used in carrying out the agency's powers and duties. A gift to the agency becomes state property, and an officer or employee of the agency is not permitted to use it for private purposes. Even legally permissible gifts may raise questions about impropriety; such questionable gifts either should be refused or should be donated to a tax-exempt charitable organization.

## **6. Use and Misuse of Government Property**

- A. **General policy.** Generally, State resources are to be used for State purposes, not private purposes. However, there are circumstances in which the incidental use of State property for personal purposes is allowed, when the use (1) does not result in direct cost to the State or the agency, (2) does not impede agency functions, (3) is not attributable to private commercial or business purposes, and

(4) is limited to incidental amounts of employee time (comparable to brief coffee breaks during the day) that do not interfere with normal performance of an employee's work duties.

- B. **Telephones and fax machines.** Agency telephones and fax machines should never be used for an employee's pecuniary benefit. Employees may make brief personal telephone calls and occasionally send and receive brief personal faxes so long as the calls and faxes do not impede the conduct of state business and do not incur charges to the agency. To limit printing costs, received personal faxes may not exceed a few pages on infrequent occasions. Because the agency incurs costs for long-distance calls on a per-call basis on regular agency lines and on an amount-of-use basis on the agency's "toll-free" line, employees must use a personal calling card or personal mobile phone for personal long-distance calls and faxes. An employee who violates this policy inadvertently or in an emergency must immediately contact the agency's accountant or purchaser to arrange reimbursement. OCA management occasionally will research the source of various calls that have incurred costs to the agency to determine if employees have violated this telephone and fax policy.

C. **Online Communications and Internet use.**

1. **General policy.** Although online communications and the Internet generally should be used only for legitimate state business, brief and occasional messages of a personal nature may be sent and received and the Internet may be used briefly and occasionally for personal reasons if the guidelines in this policy are met.
2. **Prohibited use.** Neither online communications nor the Internet may be used as follows:
  - a. For accessing, posting, sharing, saving, sending, or receiving any objectionable or offensive material, including but not limited to material that is racist, sexist, threatening, sexually explicit, or obscene;
  - b. To disable, impair, or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user;
  - c. For pecuniary benefit;
  - d. For political activities or purposes or to promote establishment of a religion;
  - e. For gambling or gaming;
  - f. For any use that causes an excessive burden on the agency's e-mail or Internet system.

3. **No privacy interest.** All e-mail and Internet use records may be recorded and stored along with the source and destination, and agency management has the ability and right to view employees' e-mail and Internet records. Recorded e-mail messages and Internet use records are the property of the agency and the State of Texas. Thus, they may be subject to the requirements of Rule 12 of the Rules of Judicial Administration and the laws applicable to State records retention.

D. **Printing and Copying.** Printing or copying of personal documents shall not exceed a few pages on infrequent occasions.

E. **Travel awards.**

Air travel awards, such as frequent flyer miles that are credited directly to the traveler and not to the agency may be used by the employee for business or personal purposes.

Rental car travel awards, such as frequent car rental points, are credited back to the agency (OCA) and, therefore, are not available to employees for personal purposes. These credits will be redeemed for future car rentals secured directly by OCA.

Hotel or food discounts offered to an employee in the course of business travel should be used to defer the cost of the current travel. If that is not possible because the discounts are for future use, then the employee may use the discounts for business or personal purposes.

## 7. **Political Activity.**

An OCA employee may not use appropriated funds for influencing the outcome of any election, or the passage or defeat of any legislative measure (this does not prohibit testifying before or providing information to the Legislature as an invited resource witness). Similarly, an OCA employee may not use state time or state equipment to work on any individual's political campaign or to distribute political advertising.

## 8. **Misuse of Official Information**

- A. An OCA employee may not use agency or court non-public information to acquire or help another person to acquire a pecuniary benefit in any property, transaction, or enterprise affected by the information.
- B. An OCA employee may not speculate or aid another to speculate on the basis of agency or court non-public information.
- C. An OCA employee may not disclose or use the non-public information with the intent to obtain a benefit or to harm another.

## 9. **Outside Employment**

- A. **Definitions.** The term "outside employment" applies to the engagement of OCA

employees in activities outside the agency for financial return or for compensation of any kind, including business or professional activities or employment in private enterprises.

- B. **Prior approval required.** OCA employees may not engage in outside employment without the approval of the administrative director. Approval will be granted unless the outside employment conflicts with the agency duties of the employee or with the best interests of OCA or of the State. Mere ownership of real estate, stocks or bonds, or similar investments ordinarily will not constitute outside employment, unless such ownership involves management

responsibilities requiring a substantial amount of time or accounts for 10 percent or more of the outstanding stock in a corporation.

- C. **Approval process.** OCA employees engaged in, or intending to engage in, outside employment must complete an OCA "Outside Employment Statement" and submit it to a supervisor. Employees who work in an agency division must submit it to their division director; associate judges and assistants to the administrative judicial regions must submit it to their presiding judge; and other specialty courts employees must submit it to their supervising associate judge, who in turn submits it to the presiding judge. Based on the criteria stated above, the division director or presiding judge shall recommend approval or disapproval of the outside employment and submit the statement to the administrative director. A copy of the statement with the administrative director's approval will be submitted to OCA's human resources office for recordkeeping.
- D. **Use of State Resources.** OCA employees are prohibited from using agency or state resources for their outside employment, and may not hold meetings relating to outside employment on agency premises. OCA employees may not use equipment or software paid for or owned by the state or located on agency premises (including but not limited to computers, long distance services, photocopying, fax or internet services) for outside employment purposes. OCA employees may not engage in outside employment on agency time, and outside employment must not impair the employee's agency work or productivity or the efficiency of the agency.
- E. **Use of Agency Name.** OCA employees who engage in outside employment do so in their individual capacity and may not represent to anyone that they are acting on behalf of the state, the agency, or a subdivision of the state. OCA employees may not use agency stationery or anything bearing the agency letterhead or logo, including business cards, or use anything else that might associate activities relating to outside employment with official OCA work.
- F. **Withdrawal of Approval.** Permission to engage in outside employment may be withdrawn by the administrative director if the director determines that the outside employment conflicts with the agency duties of the employee or with the best interests of the agency or the State.

## **10. Future Contracting or Employment**

- A. A former OCA employee may not enter into an employment contract, a professional services contract, or a consulting services contract with OCA for at least one year after leaving OCA employment if appropriated funds will pay for the services. OCA may enter into a professional services contract with a business entity that employs the former OCA employee within one year of the employee's leaving the agency, provided the employee does not perform services for the business entity that are services the employee worked on while employed by OCA.



- B. A former OCA employee who worked on regulatory matters for the Guardianship Certification Board, the Court Reporters Certification Board, or the Process Servers Review Board and whose compensation at the time of leaving state employment was at or above Step 1 of Salary Group 17 of the position classification schedule may not represent or receive compensation for services rendered on behalf of any individual or business entity regarding a particular regulatory matter in which the employee participated while employed by OCA.

## **11. Fraud Prevention and Detection**

- A. **Responsibilities.** Each OCA employee is responsible to ensure the public's expectation of honesty and integrity in government is met. The agency's chief financial officer is responsible for coordinating efforts to prevent and detect fraud and will serve as the contact person for the Governor's Office on fraud prevention and detection activities at OCA. The general counsel is the first point of contact for reporting all known, alleged or suspected fraud or other illegal activities at OCA.
- B. **Process.** OCA employees shall report any known, alleged or suspected fraud or other illegal activities at OCA to the general counsel. The report may be oral or written, and may be made by anyone having knowledge of the activity. The general counsel will make a preliminary determination of the necessity for proceeding with an investigation of the reported fraud or illegal activity. Before proceeding with an investigation, the general counsel will advise the administrative director and the chief financial officer of all facts known regarding the reported fraud or illegal activity. All personnel, files, data, records and equipment shall be made available to the general counsel to use in investigating the occurrence of, and extent of, any fraudulent or other illegal act. Upon completing the investigation, the general counsel will report the results of the investigation to the administrative director and the chief financial officer. The chief financial officer shall assume the duties of the general counsel if the general counsel is believed to be involved with the suspected fraudulent activity.
- C. **Reporting to State Auditor.** If the administrative director believes that OCA assets may have been lost, misappropriated, or misused; or that other fraudulent or unlawful conduct has occurred in relation to the operations of OCA, then he or she shall report the reason and basis for the belief to the state auditor.

## **12. Consequences of Violation**

An OCA employee who violates this or other agency policy is subject to disciplinary action, up to and including termination. An OCA employee who violates federal or state law may also be subject to civil or criminal penalties.

Statutory References: Texas Government Code Chapter 572 and Sections 556.004, 2203.004, and 2252.901; Texas Election Code Section 255.0031; Texas Penal Code Chapters 36 and 39.

**Acknowledgment - Receipt of Information  
Concerning Office of Court Administration Ethics and Conduct Policy**

I, \_\_\_\_\_, acknowledge by my signature below that I  
(printed name)

received and read a copy of the Office of Court Administration Ethics and Conduct Policy for Agency

Employees on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
(Employee Signature)

**\*\*\*\*\*PLEASE RETURN A COPY OF THIS FORM TO\*\*\*\*\*  
HUMAN RESOURCES**